

and complete at the moment it is collected. In the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Material which may seem unrelated, irrelevant, or incomplete when collected may take on added meaning or significance as an investigation progresses. The restrictions of this provision could interfere with the preparation of a complete investigation report, and thereby impede effective law enforcement.

(8) From subsection (e)(8) because the application of this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation, and could reveal investigation techniques, procedures, and/or evidence.

(9) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d) pursuant to subsections (j)(2), (k)(1), and (k)(2) of the Privacy Act.

(i) Consistent with the legislative purpose of the Privacy Act of 1974 (Pub. L. 93-579) the BOP has initiated a procedure whereby federal inmates in custody may gain access and review their individual prison files maintained at the institution of incarceration. Access to these files will be limited only to the extent that the disclosure of records to the inmate would jeopardize internal decision-making or policy determinations essential to the effective operation of the Bureau of Prisons; to the extent that disclosure of the records to the inmate would jeopardize privacy rights of others, or a legitimate correctional interest of security, custody, or rehabilitation; and to the extent information is furnished with a legitimate expectation of confidentiality. The Bureau of Prisons will continue to provide access to former inmates under existing regulations as is consistent with the interests listed above. Under present Bureau of Prisons regulations, inmates in federal institutions may file administrative complaints on any subject under the control of the Bureau. This would include

complaints pertaining to information contained in these systems of records.

[Order No. 645-76, 41 FR 12640, Mar. 26, 1976, as amended by Order No. 6-86, 51 FR 15479, Apr. 24, 1986; Order No. 113-96, 61 FR 6316, Feb. 20, 1996; Order No. 114-96, 61 FR 6317, Feb. 20, 1996; Order No. 115-96, 61 FR 6319, Feb. 20, 1996]

§ 16.98 Exemption of the Drug Enforcement Administration (DEA)—limited access.

(a) The following systems of records are exempt from 5 U.S.C. 552a(c)(3) and (d):

(1) Automated Records and Consummated Orders System/Diversion Analysis and Detection System (ARCOS/DADS) (Justice/DEA-003)

(2) Controlled Substances Act Registration Records (Justice/DEA-005)

(3) Registration Status/Investigatory Records (Justice/DEA-012)

(b) These exemptions apply only to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(k)(2). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of the disclosure accounting would enable the subject of an investigation to gain valuable information concerning the nature and scope of the investigation and seriously hamper the regulatory functions of the DEA.

(2) From subsection (d) because access to records contained in these systems may provide the subject of an investigation information that could enable him to avoid compliance with the Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91-513).

(c) Systems of records identified in paragraphs (c)(1) through (c)(6) below are exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(5), (e)(8) and (g) of 5 U.S.C. 552a. In addition, systems of records identified in paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) below are also exempted pursuant to the provisions of 5 U.S.C. 552a(k)(2) from subsections (c)(3), (d) and (e)(1). Finally, systems of records identified in paragraphs (c)(1), (c)(2), (c)(3) and (c)(5) below are also exempted pursuant to the provisions of 5 U.S.C.

552a(k)(1) from subsections (c)(3), (d) and (e)(1):

(1) Air Intelligence Program (Justice/DEA-001)

(2) Investigative Reporting and Filing System (Justice/DEA-008)

(3) Planning and Inspection Division Records (Justice/DEA-010)

(4) Operations Files (Justice/DEA-011)

(5) Security Files (Justice/DEA-013)

(6) System to Retrieve Information from Drug Evidence (STRIDE/Ballistics) (Justice/DEA-014)

(d) Exemptions apply to the following systems of records only to the extent that information in the systems is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2): Air Intelligence Program (Justice/DEA-001); Planning and Inspection Division Records (Justice/DEA-010); and Security Files (Justice/DEA-013). Exemptions apply to the Investigative Reporting and Filing System (Justice/DEA-008) only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(1). Exemptions apply to the Operations Files (Justice/DEA-011) only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). Exemptions apply to the System to Retrieve Information from Drug Evidence (STRIDE/Ballistics) (Justice/DEA-014) only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2). Exemption from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of disclosure accounting would provide to the subjects of an investigation significant information concerning the nature of the investigation and thus would present the same impediments to law enforcement as those enumerated in paragraph (d)(3) regarding exemption from subsection (d).

(2) From subsection (c)(4) to the extent that it is not applicable because an exemption is being claimed from subsection (d).

(3) From the access provisions of subsection (d) because access to records in this system of records would present a serious impediment to law enforcement. Specifically, it could inform the

record subject of an actual or potential criminal, civil, or regulatory investigation of the existence of that investigation; of the nature and scope of the information and evidence obtained as to his activities; of the identity of confidential sources, witnesses, and law enforcement personnel; and of information that may enable the subject to avoid detection or apprehension. Similarly, it may alert collateral suspects yet unprosecuted in closed cases. It could prevent the successful completion of the investigation; endanger the life, health, or physical safety of confidential sources, witnesses, and law enforcement personnel, and/or lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony; or it may simply reveal a sensitive investigative technique. In addition, granting access to such information could result in the disclosure of confidential/security-sensitive or other information that would constitute an unwarranted invasion of the personal privacy of third parties. Finally, access to the records could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy. From the amendment provisions of subsection (d) because amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(4) From subsection (e)(1) because the application of this provision could impair investigations and interfere with the law enforcement responsibilities of the DEA for the following reasons:

(i) It is not possible to detect relevance or necessity of specific information in the early stages of a civil, criminal or other law enforcement investigation, case, or matter, including investigations during which DEA may obtain properly classified information. Relevance and necessity are questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established.

(ii) During the DEA's investigative activities DEA may detect the violation of either drug-related or non-drug

related laws. In the interests of effective law enforcement, it is necessary that DEA retain all information obtained because it can aid in establishing patterns of activity and provide valuable leads for Federal and other law enforcement agencies or otherwise assist such agencies in discharging their law enforcement responsibilities. Such information may include properly classified information, the retention of which could be in the interests of national defense and/or foreign policy.

(5) From subsection (e)(2) because, in some instances, the application of this provision would present a serious impediment to law enforcement for the following reasons:

(i) The subject of an investigation would be placed on notice as to the existence of an investigation and would therefore be able to avoid detection or apprehension, to improperly influence witnesses, to destroy evidence, or to fabricate testimony.

(ii) In certain circumstances the subject of an investigation cannot be required to provide information to investigators, and information relating to a subject's illegal acts must be obtained from other sources.

(iii) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful prosecution.

(6) From subsection (e)(3) because the requirements thereof would constitute a serious impediment to law enforcement in that they could compromise the existence of an actual or potential confidential investigation and/or permit the record subject to speculate on the identity of a potential confidential source, and endanger the life, health or physical safety of either actual or potential confidential informants and witnesses, and of investigators/law enforcement personnel. In addition, the notification requirement of subsection (e)(3) could impede collection of that information from the record subject, making it necessary to collect the information solely from third party sources and thereby inhibiting law enforcement efforts.

(7) From subsection (e)(5) because in the collection of information for law

enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

(8) From subsection (e)(8) because the application of this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation, and could reveal investigative techniques, procedures, or evidence.

(9) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d) pursuant to subsections (j)(2), (k)(1) and (k)(2) of the Privacy Act.

(e) The following systems of records are exempt from 5 U.S.C. 552a (d)(1) and (e)(1):

(1) Grants of Confidentiality Files (GCF) (Justice/DEA-017), and

(2) DEA Applicant Investigations (Justice/DEA-018).

(f) These exemptions apply only to the extent that information in these systems is subject to exception pursuant to 5 U.S.C. 552a(k)(5). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (d)(1) because many persons are contacted who, without an assurance of anonymity, refuse to provide information concerning an applicant for a grant of confidentiality with DEA. By permitting access to information which may reveal the identity of the source of that information—after a promise of confidentiality has been given—DEA would breach the promised confidentiality. Ultimately, such breaches would restrict the free flow of information which is vital to a determination of an applicant's qualifications for a grant.

(2) From subsection (e)(1) because in the collection of information for investigative and evaluation purposes, it is impossible to determine in advance what exact information may be of assistance in determining the qualifications and suitability of a candidate. Information which may appear irrelevant, when combined with other apparently irrelevant information, can on occasion provide a composite picture of an applicant which assists in determining whether a grant of confidentiality is warranted.

(g) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(5), (e)(8) and (g) of 5 U.S.C. 552a. In addition, this system of records is exempted pursuant to the provisions of 5 U.S.C. 552a (k)(1) and (k)(2) from subsections (c)(3), (d), and (e)(1):

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(Justice/DEA-006)

(h) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1), and (k)(2). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) for the reasons given in paragraphs (b)(1) and (d)(1).

(2) From subsection (c)(4) to the extent that is not applicable because an exemption is being claimed from subsection (d).

(3) From subsection (d) for the reasons given in paragraphs (b)(2), (d)(3), and (f)(1).

(4) From subsection (e)(1) for reasons given in paragraphs (d)(4) and (f)(2).

(5) From subsection (e)(2) for reasons given in paragraph (d)(5).

(6) From subsection (e)(3) for reasons given in paragraph (d)(6).

(7) From subsection (e)(5) for reasons given in paragraph (d)(7).

(8) From subsection (e)(8) for the reasons given in paragraph (d)(8).

(9) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d) pursuant to subsections

(j)(2), (k)(1) and (k)(2) of the Privacy Act.

[Order No. 88-94, 59 FR 29717, June 9, 1994, as amended by Order No. 127-97, 62 FR 2903, Jan. 21, 1997]

§ 16.99 Exemption of the Immigration and Naturalization Service Systems-limited access.

(a) The following systems of records of the Immigration and Naturalization Service are exempt from 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4)(G) and (H), (e) (5) and (8), and (g):

(1) The Immigration and Naturalization Service Alien File (A-File) and Central Index System (CIS), JUSTICE/INS-001A.

(2) The Immigration and Naturalization Service Index System, JUSTICE/INS-001 which consists of the following subsystems:

(i) Agency Information Control Record Index.

(ii) Alien Enemy Index.

(iii) Congressional Mail Unit Index.

(iv) Air Detail Office Index.

(v) Anti-smuggling Index (general).

(vi) Anti-smuggling Information Centers Systems for Canadian and Mexican Borders.

(vii) Border Patrol Sectors General Index System.

(viii) Contact Index.

(ix) Criminal, Narcotic, Racketeer and Subversive Indexes.

(x) Enforcement Correspondence Control Index System.

(xi) Document Vendors and Alterers Index.

(xii) Informant Index.

(xiii) Suspect Third Party Index.

(xiv) Examination Correspondence Control Index.

(xv) Extension Training Enrollee Index.

(xvi) Intelligence Index.

(xvii) Naturalization and Citizenship Indexes.

(xviii) Personnel Investigations Unit Indexes.

(xix) Service Look-Out Subsystem.

(xx) White House and Attorney General Correspondence Control Index.

(xxi) Fraudulent Document Center Index.

(xxii) Emergency Reassignment Index.